

Bedford Hills, New York  
July 17, 2012

A public hearing was held by the Town Board Town of Bedford on July 17, 2012 at the Town Offices, 321 Bedford Road, Bedford Hills, New York to consider the adoption of Chapter 60 of the Code of the Town of Bedford regarding the storage and use of fireworks, Local Law #7-2012. The hearing was called to order at 7:10 P.M. by Supervisor Roberts.

<b>Present:</b>	Lee V. A. Roberts	: Supervisor
	Peter Chryssos	: Councilman
	Chris Burdick	: Councilman
	David Gabrielson	: Councilman
	Lisbeth Fumagalli	Town Clerk
	Joel H. Sachs	: Town Attorney
	Jeffrey Osterman	: Town Planner
	William Hayes	: Chief of Police
	Amy Pectol	: Receiver of Taxes
	Edward J. Ritter	: Town Comptroller

**Absent:** Francis Corcoran : Councilman

And twelve (12) residents/observers.

Mrs. Roberts called the meeting to order. Proof of Publication was presented by the Town Clerk and ordered filed. The public notice was published in the Bedford Pound Ridge Record Review on July 6, 2012.

Chief Hayes reviewed the proposed legislation.

Mrs. Roberts opened the floor to public comment and there was none.

On a motion by Mrs. Roberts, seconded by Mr. Chryssos, the following resolution was  
**ADOPTED**

Ayes: Roberts, Chryssos, Gabrielson, Burdick  
Nays: None  
Absent: Corcoran

**RESOLVED** that the Town Board does hereby close the public hearing to consider the adoption of Chapter 60 of the Code of the Town of Bedford regarding the storage and use of fireworks, Local Law #7-2012.

On a motion by Mr. Burdick, seconded by Mr. Chryssos, the following resolution was  
**ADOPTED**

Ayes: Roberts, Chryssos, Gabrielson, Burdick  
Nays: None  
Absent: Corcoran

**RESOLVED** that the Town Board does hereby issue a negative declaration with regard to Local Law #7-2012 – the adoption of Chapter 60 of the Code of the Town of Bedford regarding the storage and use of fireworks as the enactment of this legislation shall have no adverse physical or environmental effects on the Town of Bedford.

On a motion by Mr. Burdick, seconded by Mr. Chryssos, the following resolution was  
**ADOPTED**

Ayes: Roberts, Chryssos, Gabrielson, Burdick  
Nays: None  
Absent: Corcoran

**RESOLVED** that the Town Board does hereby enact the following legislation:

**LOCAL LAW NO. 7 OF 2012 - A LOCAL LAW TO ADOPT**

## **CHAPTER 60 OF THE CODE OF THE TOWN OF BEDFORD**

A LOCAL LAW to adopt Chapter 60 of the Code of the Town of Bedford regulating the storage and use of fireworks.

**BE IT ENACTED** by the Town Board of the Town of Bedford as follows:

Section 1. Chapter 60 of the Code of the Town of Bedford, entitled “Fireworks” is hereby adopted as follows:

### **§ 60-1. Findings and Purpose.**

Pursuant to recent revisions to the New York State Penal Law, §405.00, it is now legal for private individuals, as well as organizations and municipalities, to employ the services of professional pyrotechnics for fireworks displays. The Town Board of the Town of Bedford hereby finds that such activities are extremely dangerous, as they incorporate the use of highly explosive materials and other devices which pose a threat to the health and safety of the Town of Bedford and its residents. The Board therefore finds it necessary to enact a local law benefiting the health, safety and general welfare of the Town of Bedford and its residents with respect to the storage and use of fireworks within the Town’s jurisdiction.

This local law shall augment, and in no way conflict with or supersede, Sections 405.00 and 270.00 of the New York State Penal Law and, where applicable, shall regulate those areas specifically prescribed to the authority of the Town.

### **§ 60-2. Definitions.**

#### **ASSISTANT**

For purposes of this Chapter, the term “Assistant” shall mean the individual(s) employed by a State-certified pyrotechnic Operator (as defined below) and who is at least eighteen years of age and trained in the proper handling and discharge of fireworks.

#### **FIREWORKS**

“Fireworks” shall be defined herein in accordance with Section 270 of the New York State Penal Law as any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, sparklers or other combustible or explosive of like construction, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive substance.

#### **PERMIT**

A Permit, for purposes of this Chapter, shall mean a permit issued by the Permitting Authority for the public display and discharge of fireworks in accordance with the requirements set forth by this Chapter and as provided for in the application materials provided by the Town of Bedford.

#### **PERMITTING AUTHORITY**

The Permitting Authority, for purposes of this Chapter, shall mean the Town of Bedford Town Clerk, who shall review applications for fireworks displays and, in

consultation with the Town of Bedford Police Department and the appropriate District Fire Department, issue or deny Permits in connection therewith.

## **OPERATOR**

An “Operator” shall be defined as a pyrotechnic or pyrotechnic company certified by the State of New York, pursuant to Article 28-D of the New York State General Business Law and Article 16 of the New York State Labor Law, in the handling, storage and discharge of fireworks.

## **SPONSOR**

The “Sponsor,” for purposes of this Chapter, shall mean any person, company, municipality, fair association, or other legal entity applying for a Permit for the discharge and display of fireworks.

### **§ 60-3. General Restrictions; Permit Required.**

- A. No person or other legal entity shall conduct an indoor fireworks display in the Town of Bedford.
- B. No public fireworks display shall be conducted in the Town of Bedford on a lot containing a two-family or multi-unit dwelling as its principal use.
- C. No storage of fireworks, or public or private fireworks display, shall be conducted in the Town of Bedford unless a valid Permit for such storage and/or display is first issued by the Permitting Authority.
- D. A Permit issued pursuant to this Chapter shall not be transferable to any other party. Attempt to transfer such Permit shall result in revocation of the Permit.

### **§ 60-4. Application.**

- A. The application for a Permit pursuant to this Chapter shall contain at least the following information, and supporting documents, on a form provided by the Town:
  - (a) The name of the Sponsor;
  - (b) The name of the State-certified Operator hired to conduct the display;
  - (c) All Assistants who will work with/for the Operator in executing the fireworks display for which the Permit is sought;
  - (d) A verified statement from the Sponsor identifying the Operator, accompanied by copies of all certificates demonstrating competence as a State-certified Operator; such certificates shall include:
    - (1) A copy of the Operator’s U.S. Department of Transportation Hazardous Material Certificate of Registration;
    - (2) A copy of the Operators’ U.S. Treasury Department, Bureau of Alcohol, Tobacco and Firearms Explosives Permit;
    - (3) A copy of the Operator’s New York State Department of Labor, Division of Safety and Health license to deal in or manufacture explosives; and
    - (4) Copies of the licenses of the individual Assistants who will assist the Operator in execution of the fireworks display;

- (e) The date and time on which the display is to be made;
- (f) The number and kind of fireworks;
- (g) The manner and place of storage of the fireworks under the display date;
- (h) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions;
- (i) Such other information as the Permitting Authority or Town of Bedford Police Department prescribes as necessary for the evaluation and determination of a fireworks Permit application.

Such application shall be filed with the Permitting Authority no less than thirty (30) calendar days before the date on which the proposed fireworks display is to take place. Such application shall be accompanied by a non-refundable fee as set forth in the Town of Bedford fee schedule on file in the Town Clerk's Office.

- B. Bond or Insurance. Before granting and issuing a Permit for the display of fireworks as herein provided, the Permitting Authority shall require an adequate bond from the Sponsor, unless it is a State Park, or a City, Town or Village, which shall not be less than one million dollars, conditioned for the payment of all damages which may be caused to a person or to the property of a person or legal entity by reason of the display permitted and arising from any acts or omissions of the Sponsor, Operator, or any agent, employee, contractor, or subcontractor thereof. A certificate evidencing the purchase of the bond shall be provided to the Town prior to the date of any proposed fireworks display.

The Town may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond would be predicated and for the purposes provided in this Section. Such indemnity insurance policy shall name the Town of Bedford, and its agents, officers, directors and employees, as an additional insured. A certificate evidencing the purchase of the policy shall be submitted to the Town prior to the date of any proposed fireworks display.

- C. Upon receipt of an application for a fireworks Permit, the Permitting Authority shall review the application contents, consult with the Town of Bedford Police Department and determine whether such application is in conformity with the requirements of this Chapter. The Permitting Authority shall not unreasonably withhold granting of a Permit.
- D. Denial of an application for a Permit shall be in writing, addressed to the Sponsor of the Permit, setting forth the reasons for such denial.
- E. The non-refundable fee for submission of a fireworks display permit application shall be as set forth in the Town fee schedule.

#### **§ 60-5. Viewing Distance.**

The Sponsor and Operator shall establish the minimum safe viewing distance from which viewers of the fireworks display can observe the proposed display without risk of harm or injury, which minimum distance shall be approved by the Permitting Authority, in consultation with the Town of Bedford Police Department. A perimeter shall be

established for this purpose, which only authorized members of the Permitting Authority and Operator may cross before and during execution of the fireworks display.

**§ 60-6. Revocation of Permit.**

If the Permitting Authority discovers that the Sponsor has provided intentionally misleading or false information in the application materials, or that the Sponsor or Operator has otherwise violated any provision of this Chapter, he/she may deny or revoke the Permit prior to the date of the proposed fireworks display.

**§ 60-7. Additional Requirements.**

- A. All fireworks that fire as a projectile shall be set up such that they fire in as vertical a direction as possible in order to avoid the possibility that debris will travel outside the perimeter established pursuant to Section 60-5, above.
- B. All debris resulting from the fireworks display shall be promptly collected and properly disposed of by the Operator in the manner prescribed by State law.
- C. There shall be at least two (2) individuals constantly on duty during the discharge of the fireworks display, at least one of whom shall be a State-certified Operator. Furthermore, there shall be two (2) approved type fire extinguishers kept within the actual display area, which must be as widely separated as possible.
- D. The Town reserves the right to have a representative of the Permitting Authority, the Town of Bedford Police Department or another appropriate representative, attend any fireworks display for which a Permit is issued.
- E. The Sponsor and Operator shall have all Permits available and ready for inspection onsite before and during the execution of the fireworks display.
- F. No smoking shall be permitted within 200 ft. of any area where fireworks or other related materials are being temporarily stored.

**§ 60-8. Penalties for Offenses.**

- A. Any person, legal entity, Sponsor, or Operator committing an offense against this Chapter shall be subject to the penalties of Article 270 of the New York State Penal Law, and Section 405.05 of the New York State Penal Law concerning seizure of fireworks.
- B. Notwithstanding any conviction(s) for violation of State law, violation of this Chapter shall constitute a violation of the Code of the Town of Bedford, subject to a civil penalty of \$250.00 and revocation of any and all Permits issued pursuant to this Chapter. Any such conviction will also be considered in determining whether future permits under this Chapter should be issued to the same Sponsor and/or Operator.
- C. The Building Inspector, in addition to any other person or agency authorized under State or local law, shall have the authority to enforce the provisions of this Chapter and issue citations for civil penalties for failure to comply with the provisions this Chapter.

**§ 60-9. Severability.**

In the event any section, subsection, paragraph, or clause of this Chapter is declared invalid by a court of competent jurisdiction, such finding shall have no effect on the remaining provisions of this Chapter or their enforceability.

**§ 60-10. Conflict with State Law.**

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In the event any section, subsection, paragraph, or clause of this Chapter is in conflict with Sections 270.00 or 405.00 of the State Penal Law, the provisions of the Penal Law are deemed to be incorporated herein and will control.

Section 2. This local law shall take effect immediately upon filing with the Office of the Secretary of State.

There being no further discussion the hearing was adjourned at 7:16 pm.

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Lisbeth Fumagalli, Town Clerk